

**NEW TRIAL
MOTION
OF FRANK
WILL BE
RULED ON
FRIDAY**

Judge Roan Reserves
Decision

Until Friday Morning
to Look

Into Certain Matters of
Law

Involved in Case

WHOLE FIGHT
CENTERED ON

STORY OF NEGRO,
CONLEY

Rosser's Final Plea
Charged

That Judge Roan “Destroyed Frank’s Life” in Admitting Negro’s Story as Evidence

Judge L. S. Roan will announce his decision, granting or denying Leo M. Frank a new trial, on Friday morning. At the conclusion of the final argument on the new trial motion late Wednesday afternoon the judge stated that he would reserve his decision to look into certain matters of law for himself and also that the attorneys might have an opportunity to get the stenographic record of the amended motion, which was changed in many minor ways, into proper shape for his signature.

During the entire morning Thursday Solicitor Dorsey and Attorney Leonard Haas, representing the defense, were in conference, checking over the revised amended motion of the defense. It was expected that the work would not be completed until late in the afternoon, when it will be handed to Judge Roan. The latter was in his chambers Thursday looking up various questions, of law involved in the Frank motion, and attending to other work which must be completed before he leaves the superior court bench.

Attorney Luther Z. Rosser made the final plea for Frank and the greater part of his argument Wednesday afternoon was devoted to an effort to convince Judge L. S. Roan that he erred during the trial by admitting Conley's charge against Frank's character.

"When that foul charge found lodgment in the minds of the jury," said the attorney, "there was no room left in their mental makeup for a thought of innocence on any charge."

"The minute your honor let that charge go to the jury you destroyed Frank's life, there can be no doubt of that."

HANGS ON CONLEY'S STORY.

Attorney Rosser then read at length decisions of the supreme court to support his contention that Conley's evidence should not have been admitted. Every case cited by the attorney was closely followed by Solicitor General Hugh M. Dorsey and his assistant. Although the attorneys for the state realized that they would be given no opportunity to reply to the law before Judge Roan, the admissibility of Conley's testimony is the legal turning point of the whole Frank case. In this point, should Judge Roan deny a new trial, the biggest battle before the supreme court will be waged. The question of bias or prejudice of the two jurors; the question of the effect of the applause and the sentiment of the crowd upon the jury are matters left almost entirely to the discretion of Judge Roan. If he refuses to grant a new trial on either of the two points, his decision, according to past holdings of the supreme court, is practically final and will not be reviewed. As a result, the defense will depend almost wholly before the supreme court, if the case reaches that tribunal, on the plea that Conley's testimony should not have been admitted to the record.

The negro's accusations will also form the storm center in Frank's next trial, if he gets one, for the solicitor will battle again to get it before the jury, while the defense will work equally as hard to keep it out of the case. As a result, attorneys for both sides were preparing Wednesday for battles yet to come.

CHANGES ON BENCH.

It is expected that Judge Roan, almost immediately after making his decision on the Frank motion, will tender to the governor his resignation as a Judge of the Stone Mountain circuit. Judge Ben H. Hill will at the same time resign as judge of the court of appeals and Judge Roan will be commissioned to take his place there, while Judge Hill will be appointed to the fourth Judgeship of the Atlanta circuit, and Solicitor Reed will succeed to Judge Roan's former position.

Arrangements have already been made for the conduction of the court next Week both in the Stone Mountain circuit and the criminal division of the superior court of the Atlanta circuit.

After having read many supreme court decisions to substantiate his contention that Judge Roan erred when he allowed the negro, Jim Conley, to testify concerning alleged acts of perversion the part of Leo M. Frank, Rosser declared that he would dispose of Conley's testimony with one citation not of law, but of fact—a fact which would show that Conley had fled straight through.

CITES TIME ALIBI

Mr. Rosser then took up that portion of Frank's time alibi covering the period from four minutes to 1 to 1:30, on April 26, during which Conley swore that he had been engaged in assisting Frank dispose of Mary Phagan's body and in writing the notes found by the body.

Calling attention to the testimony of Miss Kern, who swore that she saw Frank at the corner of Alabama and Whitehall streets at 1:10 p. m. on April Mr. Rosser dramatically exclaimed:"

“WHAT IS COUNTRY COMING TO.”

“What is this country coming to if jurors are going to take the word of a black, degenerate negro against that of a sweet, pure and beautiful young child like Miss Kern?”

Mr. Rosser, referring again to the fine alibi, stressed the fact that Mrs. Levy saw Frank get off the car near his home; that his parents-in-law, Mr. and Mrs. Selig, and Minola McKnight,

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the Seligs' cook. saw him a few minutes later at his home, and that all of this was before 1:30 p. m.

“When has there ever been a time before in the history of the world,” inquired Mr. Rosser, “when such women as Miss Kern, Mrs. Levy and Mrs. Selig would not be believed when the only word against them was that of a lousy negro?”

“When has the word of an African been better than the word of one Anglo- Saxon woman, much less that of four?”

“If a negro’s word is worth more than that of a beautiful young girl like Miss Kern, then I don't know what the world is coming to. But, as I repeat, there never was such a spectacle before and there never will be again. The doctrine that an African’s word is more to be relied upon than that of an Anglo-Saxon woman dies with this case.”

As he mentioned the name of Minola McKnight, Mr. Rosser walked over in front of Detective John Starnes, and looking him straight in the eye, said:

“That same Minola McKnight that you locked up to make her swear as you wanted her to swear, and violated a law you had sworn to keep.”

Mr. Rosser then read decisions to show that Judge Roan had erred in failing to observe the request of the defense that he include in his charge a reference to the impeachment of witnesses. He also argued the defense’s contention in its original motion that Judge Roan should have charged the jury that if the hypothesis that Jim Conley committed the crime of murdering Mary Phagan was just as reasonable as the hypothesis that the defendant committed the crime, then the defendant should be acquitted.

It was further contended by Mr. Rosser that the court erred when it permitted Solicitor Dorsey to question witnesses relative to alleged lasciviousness on the part of Frank.